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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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CONTENTS

STATE DOCUMENTS

Week in Review	2
Committee Action	4
Bills Introduced	6

OFFICE OF RESEARCH

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WEEK IN REVIEW

HOUSE

The House amended H.3002, the reapportionment plan for House Districts, and sent the bill to the Senate. In one amendment, the House made provisions for candidates to seek nomination by petition in the special elections scheduled for November of 1997 in affected districts. Petitions must be filed with the State Election Commission no later than noon on September 9, 1997. The bill was also amended so as to exclude from reapportionment House District 53, represented by the Honorable Jean Harris who suffered a stroke on Sunday, January 19. Pending adoption by the General Assembly and ultimate approval, the House redistricting plan provides for special elections in twenty-two House Districts and affects the following twenty-three counties: Abbeville, Anderson, Greenwood, McCormick, Saluda, Laurens, Lexington, Chesterfield, Marlboro, Dillon, Aiken, Edgefield, Orangeburg, Bamberg, Barnwell, Colleton, Allendale, Williamsburg, Georgetown, Horry, Hampton, Jasper, and Beaufort.

The House approved two measures altering the length and schedule for sessions of the General Assembly. H.3042 is a bill which shortens the legislative session by scheduling *sine die* adjournment of the General Assembly for the second Thursday in May rather than the first Thursday in June. The session is extended by one statewide legislative day for every statewide day beyond March 15 (rather than the current March 31 date) in which the House fails to give third reading to the appropriations bill. H.3041 is a joint resolution proposing that the South Carolina Constitution be amended to allow the General Assembly to convene one month later (i.e. the second Tuesday in February rather than the second Tuesday in January) during odd-numbered years so as to afford legislative committees time to begin consideration of legislation. The delay is intended avoid the present tendency for initial meetings of the full houses of the General Assembly to occur before a sufficient supply of material has worked its way through the committee process. Under the amendment, the Senate, like the House, must elect officers and attend to other preparatory matters in an organizational session prior to convening.

The House set for special order, amended, and approved H.3278, a bill which provides for a binding statewide referendum in November of 1997 in which voters will determine whether the Confederate Flag will continue to be flown above the State House. In addition to the referendum, the bill also provides that the removal or renaming of any monument, marker, flag, or memorial located on public property to honor the Confederacy or the Civil Rights Struggle cannot be accomplished without a two-thirds affirmative vote of each house of the General Assembly, if the memorial is located on state property, or a two-thirds affirmative vote of the appropriate local governing body, if the memorial is located on the property of a political subdivision.

SENATE

Sen. Mike Rose introduced S.215, a bill which repeals current law relating to hazing at state-supported institutions. This bill redefines the application of the crime of hazing, and provides tougher penalties for this offense (including a penalty of up to two years imprisonment or a fine of ten thousand dollars, or both, upon conviction of an act of hazing where physical harm occurs.)

Sen. Martin's motion to amend Senate Rule 19 so as to reinstate the Lieutenant Governor's power to appoint members to committees of free conference failed to pass.

The Senate Judiciary Committee amended the Senate reapportionment plan so that no incumbent Senators will have to run against each other. The committee also attached the Senate reapportionment plan to the House-passed plan (H.3002). The bill will now go back to the Senate floor.

STATE OF THE STATE ADDRESS

The House and Senate met in joint session at the Koger Center for the Arts on Wednesday evening, January 22, to hear Governor Beasley's third State of the State address. Highlights of this address included the Governor's recommendations to the legislature to: create a "Transportation Infrastructure Bank," to be funded from several different sources, which would "help South Carolina do a better job at leveraging our highway dollars;" establish accountability standards for school performance; expand optional kindergarten; increase teacher pay to above the Southeastern average; increase credits required for high school graduation; establish partnerships with businesses to help welfare recipients find jobs; and ban partial abortions.

COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The Wildlife Subcommittee gave a favorable recommendation to H.3142, which allows the use of single-barbed set hooks that have a shank-to-point gap of 1-3/16 (one and three-sixteenths) inches or greater on the Edisto River. The subcommittee also approved H.3160, which authorizes the Department of Natural Resources to release property such as a vehicle or hunting device to an innocent owner of the property if it was confiscated from a person who violated the game or fish provisions of the South Carolina Code.

EDUCATION AND PUBLIC WORKS

The Public Works and Transit Safety subcommittee met and took testimony on H.3007, which raises the minimum age for obtaining a driver's license from sixteen to seventeen, and raises the minimum age for obtaining a special restricted driver's license from fifteen to sixteen.

JUDICIARY

The full Judiciary Committee reported out several bills which received attention from the full House. The Committee gave a majority favorable, minority unfavorable, report to H.3278 and favorable reports to H.3041 and H.3042. H.3038 and H.3063 also received favorable reports. H.3038 provides two additional methods by which a county legislative delegation may endorse applications for notary public commissions. H.3063 ratifies amendments to the South Carolina Constitution approved by voters in November's general election to revise certain qualifications for judicial offices, alter the means by which the General Assembly elects judicial offices, and establish a Judicial Merit Selection Commission to screen candidates for the offices.

The General Laws Subcommittee gave a favorable report to H.3101 which makes it unlawful to transport a child under the age of sixteen out of state when a petition has been filed seeking a custody determination on the child. Penalties are increased where actual or threatened physical force is used to circumvent custody proceedings; and penalties are applied to situations where the child involved was born out of wedlock.

The Special Laws Subcommittee reported favorably on H.3254 which allows territory owned by a municipality to be removed from within the corporate limits of the municipality by ordinance of the municipal governing body. Territory owned by a county or jointly owned by the municipality and county may also be removed from corporate limits in this fashion upon receipt of a resolution from the county governing body requesting removal.

Legislative Update, January 28, 1997

The Constitutional Laws Subcommittee gave favorable reports to two measures which impact the General Assembly's authority to impose taxes and fees. Joint Resolution H.3143 proposes amending the South Carolina Constitution so as to require the state's electors to vote on any measure creating or increasing taxes or fees which passes the General Assembly without the approval of at least two-thirds of the membership of the House of Representatives and at least two-thirds of the membership of the Senate. H.3144 is a bill requiring at least a two-thirds affirmative vote in each house of the General Assembly for passage of a measure which creates or increases a tax.

LABOR, COMMERCE AND INDUSTRY

The Insurance Subcommittee amended and gave a favorable report to H.3039, a bill which prohibits so-called "gag clauses" in contracts between insurance companies and health care providers. As amended, the bill prohibits insurers from limiting a health care provider's ability to discuss with his patients treatment options, recommendations, and the risks associated with various courses of treatment. Insurance contracts may not limit the health care provider's legal obligation to the patient. Amendments accomplish technical changes and broaden the scope of the bill to include all health insurers rather than health maintenance organizations (HMOs), alone. The subcommittee also amended and reported favorably on H.3257, a bill which eliminates the Insurance Department Director's ex officio chairman status on the board of directors of the Medical Malpractice Liability Joint Underwriting Association and the board of governors for the Patients' Compensation Fund. The legislation addresses the Director's concerns that his membership on these boards potentially hampers his ability to regulate the entities, and may constitute dual office holding prohibited under the S.C. Constitution. The bill also eliminates the provision that actions of the Medical Malpractice J.U.A. may be appealed to the Department of Insurance. The subcommittee gave an unfavorable report to H.3129 which requires passenger vans of local chapters of the National Federation of the Blind to carry the minimum automobile insurance coverage required on comparable vehicles operated by state agencies.

The Business and Commerce Subcommittee reported favorably on H.3158 which creates a Privatization Policy Board to study and make recommendations regarding which state agency services might be more efficiently delivered by another state agency or through contract with the private sector. The Subcommittee also gave a favorable report to H.3169 which conforms the Real Estate Commission to the uniform administrative framework for professional and occupational licensing boards established in 1996. The bill makes various other revisions, such as expanding duties for "brokers-in-charge" and establishing minimum requirements for initial licensure as a real estate salesman.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee met and adopted rules for the legislative session.

WAYS AND MEANS

Ways and Means budget subcommittees continued to hear agency budget requests. The Economic Development, Capital Improvement and Other Taxes subcommittee reported favorably on **H.3176**, which concerns University of South Carolina athletics facilities revenue bonds. The bill defines "net athletic revenues" as "the entire revenues derived by the athletic department of the University for any fiscal year after payment of operating and maintenance expenses of such department but before provision is made for depreciation, amortization, nonmandatory transfers, and interest expenses of the department for such fiscal year." The bill removes the outstanding debt limit for these bonds and authorizes their use for refunding any previous authorized bonds.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.3290 HUNTING AND FISHING LICENSES Rep. Witherspoon

This bill increases the minimum fine from \$50 to \$100 for a person who hunts, fishes, or operates a boat while his privilege for those activities has been suspended. The bill also amends several provisions of the S.C. Code relating to hunting and fishing licenses (including a cost increase for certain licenses), allows a resident at least 73 years old to obtain a statewide hunting and fishing license at no cost, and allows a person to purchase a license for \$3.00 to fish in streams, lakes, rivers, and reservoirs with nonmanufactured tackle and bait only.

EDUCATION AND PUBLIC WORKS

H.3270 POINT SYSTEM FOR PURPOSES OF DRIVING RECORD Rep. Wilder

This bill amends the current point system for driving records by adding that careless driving (as defined by local ordinance) is a one point offense.

H.3284 SHRINER LICENSE PLATES Rep. Gamble

This bill deletes the restriction that a Shriner may be issued only one special license plate.

JUDICIARY

H.3266 VACANCIES IN LOCAL OFFICES Rep. Scott

This bill requires that if a vacancy occurs in a local office in a county which elects its local officers, that vacancy must be filled for the remainder of the unexpired term by appointment from the Governor upon recommendation of a majority of legislative delegation members.

H.3269 JUVENILE JUSTICE CODE REVISIONS Rep. Harrison

This bill makes various technical changes and clarifications in the Juvenile Justice Code which was enacted in 1996 by consolidating scattered portions of the code pertaining to juvenile justice.

H.3273 NEGLIGENT HOMICIDE Rep. Haskins

This bill provides that when an individual's negligent driving directly results in the death of an individual within one year of the driving incident, the driver is guilty of the felony of negligent homicide. Upon conviction, the individual must have his driver's license revoked for three years, and must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

H.3275 PRISON OVERCROWDING RELIEF ACT Rep. Klauber

This bill authorizes the Department of Corrections to use tents to house prisoners eligible for minimum custody confinement or work release. County jails and detention facilities may also make use of tents to house prisoners convicted of nonviolent offenses. Facilities which are authorized to make use of tents may not release prisoners for reason of overcrowding unless tents have been utilized to house eligible prisoners. Tents are subject to review by the State Fire Marshal and the Department of Health and Environmental Control to ensure their safety.

H.3278 REFERENDUM ON THE CONFEDERATE FLAG Rep. Cato

This bill provides for a binding statewide referendum in November of 1997 in which voters will decide whether the Confederate Battle Flag will be flown above the State House. Until the results of the referendum are certified, the Confederate Battle Flag must continue to be displayed atop the State House. The bill also requires that the removal or renaming of any monument, marker, flag, or memorial located on public property to honor the Confederacy or the Civil Rights Struggle cannot be accomplished without a two-thirds affirmative vote of each house of the General Assembly, if the memorial is located on state property, or a two-thirds affirmative vote of the appropriate local governing body if the memorial is located on the property of a political subdivision.

H.3280 TOBACCO SALES TO MINORS Rep. Quinn

This bill raises penalties for the misdemeanor of selling tobacco to minors under the age of eighteen such that a first offense carries up a fine of up to five hundred dollars and/or a prison term of up to thirty years (currently up to a twenty-five dollar fine); a second offense carries a fine of up to one thousand dollars and/or a prison term of one year (currently up to a fifty dollar fine); a third or subsequent offense carries a five thousand dollar fine and/or a prison term of one year (currently a fine of no less than one hundred dollars and/or imprisonment for not less than sixty days). These penalties also apply to individuals who fail to place tobacco product

vending machines in areas which are both inaccessible to minors and under the visual observation by a designated employee. a business license may be suspended or revoked if three or more violations occur in over the counter or automated vending of tobacco.

**H.3281 RATIFICATION OF CONSTITUTIONAL AMENDMENT: FELONS EXCLUDED
FROM PUBLIC OFFICE Rep. Wilkins**

This bill ratifies the amendment to the South Carolina Constitution approved by voters in the 1996 general election which provides that an individual convicted of a felony is ineligible to serve in a popularly elected office at the state or local level. Felons are again eligible for public service fifteen years after a sentence is completely served.

**H.3282 RATIFICATION OF CONSTITUTIONAL AMENDMENT: VOTER RESIDENCY
Rep. Wilkins**

This bill ratifies the amendment to the South Carolina Constitution approved by voters in the 1996 general election which provides that a voter who has moved his place of residence during the thirty days prior to an election may vote in his previous precinct of residence.

H.3291 EXPOSING MINORS TO INDECENT MATERIALS Rep. Kelley

This bill makes it a misdemeanor to disseminate, sell, or distribute indecent material to minors or to display indecent material in areas likely to be frequented by minors. Offenders are tried in magistrate's court with a first offense carrying a prison term of not more than one year and/or a fine of not more than one thousand dollars; a second or subsequent offense carries a prison term of not more than three years and/or a fine of not more than three thousand dollars. Additionally, maximum penalties are increased for felonies of disseminating obscene materials to minors.

H.3293 HAZING Rep. Seithel

This bill redefines the offense of hazing in state supported institutions of higher learning as abusive, threatening, or humiliating actions which a superior student (e.g. upperclassman) directs against a subordinate student. An act of hazing without physical harm is a misdemeanor punishable by up to a year in prison and/or a fine of up to five thousand dollars. An act of hazing with physical violence is a misdemeanor punishable by up to two years in prison and/or a fine of up to ten thousand dollars.

LABOR, COMMERCE AND INDUSTRY

H.3265 MORTGAGE LOAN RESTRICTIONS IN REAL PROPERTY SALES Rep. Scott

This bill provides that in sales of real property, the borrower must have an unrestricted choice of mortgage loan company. Sellers of real property who attempt to influence or restrict the choice are subject to a civil penalty of not less than five thousand dollars and not more than ten thousand dollars.

H.3267 CANCELLATION OF HOMEOWNER'S INSURANCE POLICIES Rep. Scott

This bill prohibits an insurance company from unilaterally canceling a homeowner's insurance policy for up to one year after a mortgage loan has been approved.

H.3268 GENERAL CONTRACTOR'S LICENSE Rep. Scott

This bill increases from thirty thousand dollars to one hundred fifty thousand dollars the minimum cost of a construction undertaking for which a general contractor's license is required.

H.3272 MISCELLANEOUS LOAN TRANSACTION VIOLATIONS Rep. Cato

This bill revises penalties for violations of miscellaneous loan transactions such as small mortgage or agricultural loans. On violations of these loans, debtors are restricted to individual causes of action which may lead to the recovery of actual damages and a penalty of one hundred to one thousand dollars. Class actions are prohibited.

H.3274 RIGHT TO WORK Rep. Cato

This bill makes it unlawful for individuals or labor organizations to induce employers to make membership in a labor organization a condition for employment. Neither may an individual or labor organization participate in a practice which has the effect of making a union membership a requisite for employment. Under the bill, employers or other entities who violate "Right to Work" laws are subject to a civil penalty assessed by the Director of the Department of Labor, Licensing, and Regulation of not less than five hundred and not more than five thousand dollars. Penalties for misdemeanor violations are increased to include a possible fine of five hundred to five thousand dollars and/or a prison term of ten to ninety days.

H.3276 INSURANCE ON VANS OF THE FEDERATION OF THE BLIND Rep. Simrill

This bill requires passenger vans owned or operated by local chapters of the National Federation of the Blind of South Carolina to carry automobile insurance at the same standard rates as any comparable fifteen passenger church bus.

H.3279 PATIENT ACCESS TO OPTOMETRIC PRIMARY EYE CARE ACT Rep. Meacham

This bill prohibits health insurers who provide vision care benefits from excluding either optometrists or ophthalmologists from benefit plans or extending preferential treatment to either type of practitioner within benefit plans. Such insurers must maintain in their programs a ratio of optometrists to ophthalmologists which at least equals the ratio of optometrists to ophthalmologists in the county which the insurer serves or in the state, as a whole. Insurers may not use penalties, prohibitions, incentives, or recommendations which influence a covered individual's choice of one type of provider over the other where both types of provider are qualified to render the needed service.

H.3285 MECHANIC'S LIENS Rep. Davenport

This bill allows a mechanic to preserve a lien by serving proper notice within one hundred twenty days rather than ninety days beyond the time he has ceased to labor on a structure. The bill also provides a schedule for charging interest on unpaid bills.

H.3287 PREPAID LEGAL INSURANCE Rep. Sharpe

This bill adds prepaid legal insurance to the list of insurance products which agents may sell without meeting continuing education requirements.

S.12 CHARLESTON COUNTY PUBLIC SERVICE DISTRICTS Sen. McConnell

This bill provides that a statement of candidacy is the exclusive method of nomination for candidates elected to the governing body of a public service district in Charleston County.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3286 MASSAGE/BODYWORK THERAPY LICENSURE Rep. Sharpe

Effective June 4, 1997, a person must complete a 500 hour course of study at an approved massage/bodywork school and receive a passing grade on a national exam to be licensed as a massage/bodywork therapist. This amendment clarifies that the Department of Labor, Licensing and Regulation may waive these educational requirements for an applicant practicing in this State, provided the department receives documentation of massage/bodywork experience for one year preceding the application for licensure.

H.3292 DEMOLITION OF SUBSTANDARD HOUSING Rep. Klauber

Current law allows a municipality to provide by ordinance that an owner of property in the city must keep the property clean and free of rubbish and debris. The municipality may require the owner to take action necessary to correct unsightly and unhealthy conditions on the property. This bill states that the owner may be required to demolish substandard housing which fails to meet applicable building code requirements to the effect that the housing is a public nuisance. The bill also gives the city discretionary authority to have its employees demolish any such substandard housing.

WAYS AND MEANS

H.3271 FINANCING OF TRANSPORTATION FACILITIES Rep. D. Smith

This bill provides that when a sales and use tax or tolls are imposed to finance transportation projects within a county, the requirement that the projects must be connected and form a single transportation system is deleted.

H.3288 GAMBLING/COIN-OPERATED MACHINES/VIDEO GAMES Rep. Simrill

This bill amends the law regarding coin-operated nonpayout machines so as to provide for their regulation, including the prohibition on payoffs and location of these machines in counties where such payouts and machines are prohibited under the local option provisions of The Video Game Machines Act. The bill also provides that limits on cash payouts for credits earned for free games are directed at a person, rather than at a location (as provided under current law). The bill also imposes civil penalties (including fine, revocation of license of the machine, seizure of the machine) for machines located in counties where payouts are prohibited.

H.3289 PRODUCTS/SERVICES OF STATE AGENCIES/INSTITUTIONS Rep. Davenport

This bill provides that if any state agency, department, or state-supported institution of higher learning develops a product or a service, it only may sell the product or service to public sector recipients, but in doing so, the agency, department, or institution shall not duplicate or harm existing private sector enterprise unless the Budget and Control Board authorizes the marketing of the product or the service to the private sector because there are no other private sector vendors with the state who market the same or a substantially similar product or service.